

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MICHAEL BROWN,

Plaintiff(s),

CASE NUMBER: 08-10322
HONORABLE VICTORIA A. ROBERTS

v.

STATE OF MICHIGAN,
THOMAS M. BIRKETT, Warden,
UNITED STATES SIXTH CIRCUIT
JUDGES, UNITED STATES DISTRICT
JUDGES, MICHIGAN SUPREME COURT
JUDGES, MICHIGAN COURT OF
APPEALS JUDGES, VERA MASSEY JONES,
Wayne Circuit Judge, UNITED STATES
ATTORNEY GENERAL, MICHAEL COX,
MICHIGAN DEPARTMENT OF CORRECTIONS,
STATE APPELLATE DEFENDER OFFICE,
MICHIGAN APPELLATE ASSIGNED
COUNSEL SYSTEM OFFICE, Thomas M. Harp,
Administrator, MICHIGAN PAROLE BOARD,
and ATTORNEY GRIEVANCE COMMISSION,

Defendant(s).

_____ /

ORDER DENYING PLAINTIFF'S
MOTION FOR RECONSIDERATION

On April 3, 2008, the Court adopted Magistrate Judge Charles E. Binder's recommendation that Plaintiff's Complaint be *sua sponte* dismissed with prejudice for failure to state a claim upon which relief may be granted. Plaintiff asks the Court to reconsider its decision. (Doc. #14).

Eastern District of Michigan Local Rule 7.1(g)(3) provides for reconsideration if the movant demonstrates a palpable defect by which the court and the parties have

been misled, and further demonstrates that correcting the defect will result in a different disposition of the case. “A ‘palpable defect’ is a defect which is obvious, clear, unmistakable, manifest, or plain.” *Fleck v. Titan Tire Corp.*, 177 F.Supp.2d 605, 624 (E.D. Mich. 2001). “[T]he court will not grant motions for rehearing or reconsideration that merely present the same issues ruled upon by the court, either expressly or by reasonable implication.” L.R. 7.1(g)(3).

Plaintiff says the Court erred by not construing his Complaint as a motion for sanctions upon the Attorney General. But, Plaintiff’s second amended Complaint is a habeas corpus petition that is barred under 28 U.S.C. §2244(b)(1).

In addition, the Sixth Circuit Court of Appeals issued an Order on April 28, 2008 dismissing Plaintiff’s petition for a writ of prohibition. Plaintiff’s argument that his case should be held in abeyance pending the Sixth Circuit’s decision is moot.

Plaintiff’s motion for reconsideration is **DENIED**.

IT IS ORDERED.

s/Victoria A. Roberts
Victoria A. Roberts
United States District Judge

Dated: May 6, 2008

The undersigned certifies that a copy of this document was served on the attorneys of record and Michael Brown by electronic means or U.S. Mail on May 6, 2008.

s/Linda Vertriest
Deputy Clerk